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## United States Senate

COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

July 10, 2019

The Honorable Jerome Powell  
Chairman  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551

Dear Chairman Powell:

In 2011, the United States Senate's Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs stated that investment banks were "the driving force behind the structured finance products" that fueled the U.S. financial crisis.<sup>1</sup> In particular, its report highlighted Deutsche Bank's failure to rein in risk after a top employee warned that the market for structured finance products was a "Ponzi scheme" and that some securities in the products created by Deutsche Bank were "crap."<sup>2</sup> Deutsche Bank lost \$4.5 billion on its proprietary mortgage bets alone, and received federal bailout loans of more than \$350 billion.<sup>3</sup>

As one of the major investment banks that drove the financial crisis that cost millions of Americans their jobs and their homes, one might have expected Deutsche Bank to quickly overhaul and improve its risk management. Instead, after enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the bank was the first to face an enforcement action under the Volcker Rule – a regulation meant to curb the type of proprietary trading that got Deutsche Bank into trouble in the period preceding the crisis.<sup>4</sup> Deutsche Bank was also the first bank to fail to comply with derivatives reporting standards,<sup>5</sup> and a year later violated the consent order imposed as punishment for their initial failure to report those swaps transactions by again failing to report derivatives transactions.<sup>6</sup> More recently, Deutsche Bank paid hundreds of millions in fines – to US authorities and overseas regulators – for major violations related to

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<sup>1</sup> Pg 14 <https://www.govinfo.gov/content/pkg/CHRG-112shrg57323/pdf/CHRG-112shrg57323.pdf>

<sup>2</sup> Pg 379 <https://www.govinfo.gov/content/pkg/CHRG-112shrg57323/pdf/CHRG-112shrg57323.pdf>

<sup>3</sup> Pg 131 <https://www.gao.gov/assets/330/321506.pdf>

<sup>4</sup> <https://www.reuters.com/article/bc-finreg-volcker-violation-deutsche-ban/deutsche-fined-in-first-volcker-rule-market-making-case-and-for-forex-lapses-idUSKBN17S2N3>

<sup>5</sup> <https://www.reuters.com/article/deutsche-cftc-penalty-idUSEMN4ZQZ8W20150930>

<sup>6</sup> [https://www.cftc.gov/sites/default/files/idc/groups/public/@lrenforcementactions/documents/legalpleading/enfdbco\\_mplaint081816.pdf](https://www.cftc.gov/sites/default/files/idc/groups/public/@lrenforcementactions/documents/legalpleading/enfdbco_mplaint081816.pdf)

money laundering<sup>7</sup> and to US state and federal authorities for systemic sanctions violations.<sup>8</sup> Top Deutsche Bank executives were also implicated in an international tax fraud scheme that involved as many as 80 bank employees.<sup>9</sup> Deutsche Bank supervisors and managers were also charged by the Department of Justice with the manipulation of the LIBOR market that is used to determine rates for millions of investors and consumers.<sup>10</sup>

Though Federal Reserve officials have downplayed risks in the leveraged lending market, Deutsche Bank recently reported sizable losses on almost \$2 billion in loans for leveraged buyouts.<sup>11</sup> It seems that Deutsche Bank believes there is no activity too risky to avoid.

Most recently, senior officials in Deutsche's Wealth Management Division have been accused by internal senior bank compliance staff of blocking the filing of suspicious activity reports related to accounts held by certain Trump entities, the Kushner Companies, and the Trump Foundation – activities which recent media reports indicate have now helped trigger a federal criminal investigation of the bank's money laundering lapses.<sup>12</sup> All this comes on the heels of longstanding reports of Deutsche Bank's role in handling over \$150 billion in transactions, some suspicious though also unreported, involving the tiny Estonian unit of Danske Bank A/S – a firm that was again rocked by new allegations of misconduct last month.<sup>13</sup>

Failures of this magnitude can only fairly be described as indications of serious systemic management weaknesses – or in some cases, even complicity.<sup>14</sup>

Some may attempt to blame such failures on rogue employees -- as JPMorgan Chase attempted to do when it lost more than \$6.2 billion in the “London Whale” debacle,<sup>15</sup> or as Wells Fargo tried to do by blaming its massive fraudulent accounts scandal on “a few bad apples.”<sup>16</sup> Just as with those failures – initially reported as isolated incidents, but eventually found to be systemic management failures – Deutsche Bank's persistent problems appear to be caused by systemic management failures as well.<sup>17</sup>

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<sup>7</sup> <https://www.dfs.ny.gov/docs/about/ea/ea170130.pdf>; and <https://www.fca.org.uk/news/press-releases/fca-fines-deutsche-bank-163-million-anti-money-laundering-controls-failure>

<sup>8</sup> <https://www.dfs.ny.gov/system/files/documents/2019/02/ea151103.pdf>; and <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20151104a1.pdf>

<sup>9</sup> <https://www.bloomberg.com/news/articles/2019-06-11/deutsche-bank-tax-probe-targets-about-80-current-former-staff>

<sup>10</sup> <https://www.justice.gov/opa/pr/two-former-deutsche-bank-employees-indicted-fraud-charges-connection-long-running>

<sup>11</sup> <https://www.ft.com/content/7ac67e18-9755-11e9-8cfb-30c211dcd229>

<sup>12</sup> <https://www.nytimes.com/2019/06/19/business/deutsche-bank-money-laundering-trump.html>

<sup>13</sup> <https://www.wsj.com/articles/deutsche-bank-handled-150-billion-of-potentially-suspicious-flows-tied-to-danske-1542724703>

<sup>14</sup> <https://www.bloomberg.com/news/articles/2019-06-11/deutsche-bank-tax-probe-targets-about-80-current-former-staff>

<sup>15</sup> <https://www.reuters.com/article/us-jpmorgan-londonwhale/former-jpmorgan-trader-says-london-whale-debacle-not-his-fault-idUSKCN0VW2B0>

<sup>16</sup> <https://www.wsj.com/articles/wells-fargo-ceo-defends-bank-culture-lays-blame-with-bad-employees-1473784452>

<sup>17</sup> See Federal Reserve consent orders at

<https://www.federalreserve.gov/newsevents/pressreleases/files/enf20130114a1.pdf> regarding JPMorgan Chase and <https://www.federalreserve.gov/newsevents/pressreleases/files/enf20180202a1.pdf> regarding Wells Fargo.



Deutsche Bank's repeated failures to manage legal and financial risks are not limited to any particular division of the bank. On several occasions, the bank has failed stress tests designed to evaluate whether it is managing firm-wide risks in order to avoid another bailout. Regulators have described Deutsche Bank's failures as "poor risk management and financial planning"<sup>18</sup> and "widespread and critical deficiencies."<sup>19</sup>

Even so, rather than terminating or taking steps to mitigate risks at complex foreign megabanks like Deutsche Bank, the Federal Reserve is rewarding this mismanagement and encouraging additional risk-taking. The Fed's Vice Chair for Supervision has advocated weakening capital standards and stress testing requirements for Deutsche Bank and its foreign peers.<sup>20</sup>

This is especially troubling as you have stated that the Fed is under no obligation to weaken the regulation of foreign megabanks. During a 2018 Banking Committee hearing addressing S. 2155, Chairman Crapo asked about Section 401, "is it accurate that this provision does not weaken the oversight of the largest globally systemic banks?" You responded, "That is correct."<sup>21</sup> You were also asked whether the bill would benefit Barclays, UBS, or Deutsche Bank, and you responded, "It does not, according to my reading of the text."<sup>22</sup>

Despite this gift of weakened regulation, and Deutsche Bank's long history of non-compliance, ongoing scandals, and corrupt leadership, it appears the bank was allowed to "sail through" its most recent stress test.<sup>23</sup> Even so, with their announcement this week of yet another restructuring plan (its third in four years), Deutsche Bank's leadership has implicitly acknowledged it is too big and too complex to manage, and must dramatically simplify its operations. This massive restructuring will reportedly include scaling back its investment banking arm and establishing a "capital release unit" to "house unwanted positions and operations earmarked for sale or wind-down"; a unit that will reportedly hold, at least initially, 288 billion Euros worth of assets<sup>24</sup> -- and whose activity should itself be closely monitored by regulators.

The Federal Reserve should take immediate steps to curb risks at Deutsche Bank, and firms like it whose management teams have demonstrated repeated failures to avoid indefensible risks. Furthermore, I am concerned that Deutsche Bank's restructuring and withdrawal from several lines of business could allow other large banks to grow even larger and potentially riskier, increasing the complexity and risk of other Wall Street megabanks. Rather than reduce the frequency with which the Federal Reserve requires foreign megabanks to submit plans proving their failure will not harm the economy,<sup>25</sup> it should use those powers granted by Wall Street

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<sup>18</sup><https://www.reuters.com/article/us-usa-banks-stress-failure-idUSKCN0ZG0DM>

<sup>19</sup><https://www.reuters.com/article/us-usa-fed-stresstests/deutsche-bank-fails-fed-stress-test-while-three-u-s-lenders-stumble-idUSKBN1JO33U>

<sup>20</sup><https://www.federalreserve.gov/newsevents/pressreleases/99A5C407E998418CB2CB9DDB85C54B0B.htm>

<sup>21</sup><https://plus.cq.com/doc/congressionaltranscripts-5274125?0>

<sup>22</sup><https://www.ft.com/content/0f7225b4-1f2d-11e8-a895-1ba1f72c2c11>

<sup>23</sup><https://www.americanbanker.com/news/banks-sail-through-years-first-round-of-stress-tests>

<sup>24</sup><https://www.wsj.com/articles/deutsche-bank-to-exit-global-equities-trading-business-11562512302>

<sup>25</sup><https://www.federalreserve.gov/newsevents/pressreleases/3B1F641BEB4A485B994EBC38165F0F3B.htm>

Reform to simplify the structure and activities at both domestic and foreign banks and reduce their operations to a manageable size and complexity.<sup>26</sup>

The Federal Reserve should also take advantage of powers granted under the Bank Holding Company Act to force divestiture of business lines and subsidiaries when a firm has repeatedly demonstrated that it is not meeting the managerial competence requirements under the law.<sup>27</sup>

The Federal Reserve's failure to exercise its authorities allowed Deutsche Bank and other major banks to fuel the last financial crisis. Failing to do so again not only endangers working families and the economy, but also sends a dangerous signal to domestic megabanks that they should feel free to ignore the law and take imprudent risks. I urge you to do everything in your power to protect the real economy by taking steps to simplify these institutions, starting with Deutsche Bank, so that they may be prudently managed and supervised.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Sherrod Brown". The signature is written in a cursive, flowing style.

Sherrod Brown

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<sup>26</sup> See Section 165(d) of P.L. 111-203

<sup>27</sup> See sections 3,4 and 5 of the Bank Holding Company Act